WMC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
07 DEC 26 AM 11:30
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Julio RIVAS-Garcia,** Defendant	Magistrate Docket No. '07 MJ 2970
	COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **December 23, 2007** within the Southern District of California, defendant, **Julio RIVAS-Garcia,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **26th** DAY OF **DECEMBER 2007**

Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Julio RIVAS-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On December 23, 2007, Senior Patrol Agent A. Markle was assigned to patrol border duties in the Jamul, California area. At approximately 2:00 AM, Agent Markle responded to a report from Sector Communications concerning possible illegal alien activity on Barrett Lake Road. This road is very rural, closed to the general public, and only contains two residences on five miles of road which is locked to prevent public entry. Barrett Lake Road is located approximately 7 miles west of the Tecate, California Port of Entry and runs from two miles north of the International Boundary to approximately 8 miles north of the International Boundary between the United States and Mexico. Due to the close proximity to the International Boundary, rural location and lack of residences along its length, Barrett Lake Road is highly used by individuals attempting to further their illegal entry into the United States. As Agent Markle drove north on this road, in an unmarked Agency vehicle, he came upon one individual standing by the side of the road, attempting to flag him down. Agent Markle stopped, and the individual, later identified as the defendant **RIVAS-Garcia, Julio**, attempted to open the passenger door of the Agent's vehicle. Agent Markle got out of his vehicle and walked around the front. When the defendant saw his Border Patrol uniform in the headlights, he threw up his hands, and laughed. Agent markle laughed with him, and asked whether he was surprised to see him. The defendant stated that he was. The Agent identified himself as a Border Patrol Agent, and questioned him concerning his citizenship. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States. The defendant stated that he was traveling to Santa Ana, California to find work and live with his sister. Agent Markle arrested the defendant and transported him to the United States Border Patrol Checkpoint in Dulzura, California.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **December 3, 2007** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on December 24, 2007 at 9:30 A.M.

Raul Castorena
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **December 23, 2007** in violation of Title **8**, United States Code, Section **1326**.

Leo S. Papas
United States Magistrate Judge

12/24/07 - 945Am
Date/Time